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of the Department as shall be instructed in writing by the Secretary of the Interior or authorized by regulations to make such examination.

§213.35 Mines to be timbered properly.

In mining operations the lessee shall keep the mine well and sufficiently timbered at all points where necessary, in accordance with good mining practice, and in such manner as may be necessary to the proper preservation of the property leased and safety of workmen.

§213.36 Surrender of leased premises in good condition.

On expiration of the term of a lease, or when a lease is surrendered, the lessee shall deliver to the Government the leased ground, with the mine workings in case of leases other than oil and gas, in good order and condition, and the bondsmen will be held for such delivery in good order and condition, unless relieved by the Secretary of the Interior for cause. It shall, however, be stipulated that the machinery necessary to operate any mine is the property of the lessee, but that it may be removed by him only after the condition of the property has been ascertained by inspection by the Secretary of the Interior or his authorized agents, to be in satisfactory condition.

§213.37 Penalties.

Failure of the lessee to comply with any provisions of the lease, of the operating regulations, of the regulations in this part, orders of the Area Director or his representative, or of the orders of the supervisor or his representative, shall subject the lease to cancellation by the Secretary of the Interior or the lessee to a penalty of not more than \$500 per day for each day the terms of the lease, the regulations, or such orders are violated, or to both such penalty and cancellation: *Provided*, That the lessee shall be entitled to notice and hearing, within 30 days after such notice, with respect to the terms of the lease, regulations, or orders violated, which hearing shall be held by the supervisor, whose findings shall be conclusive unless an appeal be taken to the Secretary of the Interior within 30

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days after notice of the supervisor's decision, and the decision of the Secretary of the Interior upon appeal shall be conclusive.

§213.38 Assignments and overriding royalties.

(a) Leases or any interest therein, may be assigned or transferred only with the approval of the Secretary of the Interior, and to procure such approval the assignee must be qualified to hold such lease under existing rules and regulations, and shall furnish a satisfactory bond for the faithful performance of the covenants and conditions thereof. No lease or any interest therein, or the use of such lease, shall be assigned, sublet, or transferred, directly or indirectly, by working or drilling contract, or otherwise, without the consent of the Secretary of the Interior. Assignments of leases shall be filed with the Area Director within 20 days after the date of execution.

(b) An agreement creating overriding royalties or payments out of production on oil and gas leases under this part shall be subject to the provisions of §211.26(d) of this subchapter, or as hereafter amended.

[22 FR 10599, Dec. 24, 1957, as amended at 23 FR 9758, Dec. 18, 1958. Redesignated at 47 FR 13327, Mar. 30, 1982]

§213.39 Stipulations.

The lessee under any lease heretofore approved may by stipulation (Form 5–154i) with the consent of the lessor and the approval of the Secretary of the Interior, make such approved lease subject to all the terms, conditions, and provisions contained in the lease form and regulations currently in use. Stipulations shall be filed with the Area Director within 20 days after the date of execution.

§213.40 Cancellations.

(a) When, in the opinion of the Secretary of the Interior, the lessee has violated any of the terms and conditions of a lease or of the applicable regulations, or if mining operations are conducted wastefully and without regard to good mining practice, the Secretary of the Interior shall have the right at any time after 30 days' notice to the lessee specifying the terms and

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conditions violated, and after a hearing, if the lessee shall so request within 30 days after issuance of the notice, to declare such lease null and void, and the lessor shall then be entitled and authorized to take immediate possession of the land.

(b) On the following conditions, the lessee may, on approval of the Secretary of the Interior, surrender a lease or any part of it:

(1) That he make application for cancellation to the Area Director having jurisdiction over the land.

(2) That he pay a surrender fee of \$1 at the time the application is made.

(3) That he pay all royalties and rentals due to the date of such application.

(4) That he make a satisfactory showing that full provision has been made for conservation and protection of the property and that all wells, drilled on the portion of the lease surrendered, have been properly abandoned.

(5) If the lease has been recorded, that he file, with his application, a recorded release of the acreage covered by the application.

(6) If the application is for the cancellation of the entire lease or the entire undivided portion, that he surrender the lease: *Provided*, That where the application is made by an assignee to whom no copy of the lease was delivered, he will be required to surrender only his copy of assignment.

(7) If the lease (or portion being surrendered or canceled) is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation.

(8) That all required fees and papers must be in the mail or received on or before the date upon which rents and royalties become due, in order for the lessee and his surety to be relieved from liability for the payment of such royalties and rentals.

(9) If there has been a contest respecting a lease or leases, the approved, the disapproved, or the canceled parts thereof will be held in the office of the Area Director for 5 days after the Department's decision has been promulgated, by mail or delivery, and will not be delivered, if within that period a motion for review and reconsideration be filed, until such motion is passed upon by the Department.

(10) In the event oil or gas is being drained from the leased premises by wells not covered by a lease; the lease, or any part of it, may be surrendered, only on such terms and conditions as the Secretary of the Interior may determine to be reasonable and equitable.

(c) No part of any advance rental shall be refunded to the lessee nor shall he be relieved, by reason of any subsequent surrender or cancellation of the lease, from the obligation to pay said advance rental when it becomes due.

(d) For proper method of terminating departmental leases covering lands from which restrictions have been removed see section 3 of the act of May 27, 1908 (35 Stat. 312).

REMOVAL OF RESTRICTIONS

§ 213.41 Leases executed but not approved before restrictions removed from land.

Leases executed before the removal of restrictions against alienation on land from all of which restrictions against alienation shall be removed after such execution, if such leases contain specific provisions for approval by the Secretary of the Interior, whether now filed with the Department or presented for consideration hereafter, will be considered and acted upon by this Department as heretofore but only for the purpose of approving or disapproving the instrument.

§ 213.42 Operations after removal of restrictions from leased lands.

(a) Oil and gas leases heretofore approved and leases for other minerals now or hereafter in force on land from all of which restrictions against alienation have been or shall be removed, even if such leases contain provision authorizing supervision by this Department, shall after such removal of restrictions against alienation, be operated entirely free from such supervision, and the authority and power delegated to the Secretary of the Interior in said leases shall cease and all payments required to be made to the Area Director shall thereafter be made to the lessor or the then owner of the land, and changes in regulations thereafter made by the Secretary of the Interior shall not apply to such leased